IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.74 OF 2007

IN

SUIT NO.185 OF 1982

Navalsankar Murji Saudagar .. Petitioner.

Versus

M/s.K.M.Ganatra & Co. & Anr. .. Respondents.

Mr.R.C.Shah i/b.Markand Gandhi & Co. for petitioner.
Mr.H.V.Chande for respondent Nos.1 and 2.
Mr.D.V.Deokar, 1st Assistant to Court Receiver is present in person.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd October, 2007.

P.C.:

1. The respondents were appointed as agents of the Court Receiver in respect of Gala Nos.317, 318 and 319. The order of this Court, appointing Court Receiver, very clearly states that the present respondents-original defendants are in possession of these Galas and,

therefore, the Court permitted them to continue as agents of the Court Receiver.

2. The Contempt Petition proceeds to allege that despite the property being custodia legis, there is an attempt to interfere with the Court Receiver's possession inasmuch as one Sunraj Shipping Agency has been inducted into the suit galas. Representative of the Court Receiver, who visited the premises, made a report confirming the said fact.

3. In the affidavit in reply, it was contended that two table spaces in the suit galas were allowed to be occupied in or about November, 2005, for temporary period. A Statement was made on affidavit that the said Sunraj Shipping Agency has vacated the suit galas.

4. Since there was a dispute about this fact, I permitted the Receiver to appoint a representative and conduct site inspection and submit report to this Court.

5. Accordingly, report of the Court Receiver has been submitted, which states that the third floor of the building wherein the three galas are situated was inspected and it was found that the respondents are in

possession of these Gala Nos.317 to 319. The name of M/s.K.M.Ganatra & Co. was displayed on the outer door and the earlier name has been removed. The inspection report indicates that a partner of respondent No.4 was present alongwith employees.

6. In the light of this report, it is not necessary to pursue the contempt petition any further. However, it is disturbing that despite the property being custodia legis, the respondents have interfered with the possession of the Receiver. It is well settled that possession of the Receiver is nothing but a possession on behalf of the Court and no party can ever interfere or obstruct the same without seeking permission from the Court and seeking appropriate directions. Admittedly, respondents have not done so.

7. In such circumstances, while accepting their unconditional apology and disposing of this contempt petition, it is directed that the respondents shall deposit with the Court Receiver a sum of Rs.75,000/- within a period of four weeks from the date of receipt of the copy of this order. Further, needless to state that if any such attempt is repeated in future, the same shall result in Agency of the respondents being terminated

forthwith and the Court Receiver taking physical possession of the said premises from them and if necessary by using such force as is permissible in law.

8. Mr.Chande on instructions makes a statement that due intimation of the renewal of the Bank Guarantee as directed by this Court will be given to the plaintiff’s Advocate so also they will be intimated about the payments of all outgoings / maintenance charges in respect of the suit galas as and when the payment is made.

9. Contempt petition is disposed of.

(S.C.Dharmadhikari, J.)